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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,675	07/03/2001	Selim Shlomo Rakib	034704-000040	4348

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Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/898,675

Applicant(s)

RAKIB, SELIM SHLOMO

Examiner

Annan Q. Shang

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No.(s) _____.

13. ☐ Other: _____.


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: With respect to claims 1-4 rejected under 103(a) as being unpatentable over Ellis et al (2003/0149988) in view of Yamamoto (6,169,845), applicant quotes MPEP as to obviousness and further discusses the prior arts of records and further states that "Ellis has never taught or suggested that control circuitry 42 is a tuner..." and further states that "... Ellis can not render the claimed limitation of 'a crossbar switching circuit having a plurality of input and output..." and further discloses the office action and argues that the 103(a) rejection is not proper (see pages labeled 12 of 21 to 20 of 21 of applicant's Remarks).

In response, Examiner disagrees. Examiner notes applicant's arguments, however, the test for obviousness is not whether the features of a secondary reference may be bodily incorporate into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. Applicant's arguments are directed against the references individually and one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. In this instant Ellis discloses an interactive TV program guide system which includes STB-28 or Satellite Receiver with a Tuner/Communication Circuitry 'Tuner/CC' having a plurality of inputs/outputs which provides users with an opportunity to select programs for recording on a local server and permits a user to playback recorded programs and perform VCR-like functions. Ellis is silent to crossbar switching or router circuit. However, this deficiency is disclosed in Yamamoto, which discloses in the same field of endeavor, recording/reproducing apparatus which uses a crossbar switch and other peripheral units within the apparatus. With respect to Ellis never taught or suggested that the CC-42 is a tuner, Examiner notes applicant's arguments, however applicant overlooked fig.9 which was also cited in the office action and hence maintains the control circuitry of the STB-28 or 22 includes one or more tuners for receiving/transmitting data or signals from a plurality of inputs/outputs (see pages 2-6 of the office action). Hence, applicant's arguments are not persuasive, the 103(a) rejection meets all the claimed limitations and maintained.

With respect to claims 7-9, 12 and 14, rejected under 103(a) as being unpatentable over Ellis et al in view of Isono et al (6,216,171), claims 10-11 and 13 rejected under 103(a) as being unpatentable over Ellis in view of Isono and further in view of Tidwell et al (2001/0043687) and claims 5-6, rejected under 103(a) as being unpatentable over Ellis in view of Yamamoto and further in view of Billerbeck et al (6,844,895), applicant further presents similar arguments as discussed above. Furthermore Ellis discloses processing IP packets, but silent to encapsulating the video and Internet Data from the headend and a DHCP server means coupled to a router for assigning IP addresses to client..." a deficiency which is disclosed in Isono as discussed in the office action. Hence for the same reason discussed above with respect to Ellis reference, Examiner maintains the rejection is proper, meets all the claimed limitation and the finality of the last office action is maintained.